

# A Resolution

**NO. 3662-09-2008**

**A RESOLUTION INCREASING THE MAXIMUM AMOUNT TO BE PAID TO  
WHITAKER, CHALK, SWINDLE & SAWYER LLP FOR ASSISTING THE CITY  
WITH LEGAL ISSUES INCLUDING BUT NOT LIMITED TO ISSUES REGARDING  
THE WATER DEPARTMENT AND TRANSPORTATION AND PUBLIC WORKS  
CONTRACTS**

**WHEREAS**, on June 20, 2006, City Council approved M&C G-15239, adopting a resolution retaining Whitaker, Chalk, Swindle & Sawyer, LLP to provide the City legal services, including but not limited to related to the Water Department and Transportation and Public Works contracts in the amount of \$50,000; and

**WHEREAS**, on April 17, 2007, City Council approved M&C G-15680, adopting a resolution increasing the amount to be paid Whitaker, Chalk, Swindle & Sawyer, LLP to \$150,000; and

**WHEREAS**, on September 25, 2007, City Council approved M&C C-15873, adopting a resolution increasing the amount to be paid to Whitaker, Chalk, Swindle & Sawyer, LLP to \$200,000; and

**WHEREAS**, on February 19, 2008, City Council approved M&C G-16055, adopting a resolution increasing the amount to be paid to Whitaker, Chalk, Swindle & Sawyer, LLP to \$250,000; and

**WHEREAS**, it is anticipated that additional legal services concerning the Water Department and Transportation and Public Works Contracts will be needed during 2008, requiring a \$100,000 increase to the total amount paid to Whitaker, Chalk, Swindle & Sawyer, LLP, thereby establishing the maximum amount of \$350,000.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF FORT WORTH, TEXAS:**

That the maximum amount authorized to be paid to Whitaker, Chalk, Swindle & Sawyer, LLP for legal services, including but not limited to, issues concerning the Water Department and Transportation and Public Works Contracts is hereby increased by \$100,000 to an amount not to exceed \$350,000.

Adopted this 30th day of September 2008.

ATTEST:

By: \_\_\_\_\_

Marty Hendrix, City Secretary

APPROVED  
CITY COUNCIL

SEP 30 2008

*Marty Hendrix*  
City Secretary of the  
City of Fort Worth, Texas



**CITY OF FORT WORTH**

*City of Fort Worth, Texas*  
**Mayor and Council Communication**

---

**COUNCIL ACTION:** Approved on 9/30/2008 - Res. No. 3662-09-2008 & Ord. No. 18310-09-2008

---

**DATE:** Tuesday, September 30, 2008  
**LOG NAME:** 12WHITAKER 300

**REFERENCE NO.:** \*\*G-16288

**SUBJECT:**

Adopt Resolution Authorizing Increase to the Maximum Amount to be Paid to the Law Firm of Whitaker, Chalk, Swindle and Sawyer, LLP, to Assist the City in Matters Concerning the Water Department and Transportation and Public Works Contracts in an Amount Not to Exceed \$50,000.00 and Adopt Appropriation Ordinance

---

**RECOMMENDATION:**

It is recommended that the City Council:

1. Adopt the attached supplemental appropriation ordinance increasing appropriations in the Water and Sewer Fund by \$50,000.00 and decreasing the unreserved, undesignated fund balance by the same amount; and
2. Adopt a resolution increasing the maximum amount to be paid to Whitaker, Chalk, Swindle and Sawyer, LLP, by \$100,000.00 to assist the City in matters concerning the Water Department and Transportation and Public Works contracts relation to premature street failures.

**DISCUSSION:**

By adopting M&C G-15239 on June 20, 2006, the City Council approved Whitaker, Chalk, Swindle and Sawyer, LLP (Whitaker Chalk), to assist the City with various legal issues regarding the City's Water Department and Transportation and Public Works Department (TPW) contracts and authorized payment to Whitaker Chalk in an amount not to exceed \$50,000.00.

M&C G-15680, adopted on April 17, 2007, increased the authorized amount to \$150,000.00 and on September 25, 2007, M&C G-15873 was adopted to increase the authorized amount to \$200,000.00. M&C G-16055, adopted February 19, 2008, increased the authorized amount to \$250,000.00. To date, Whitaker Chalk has billed the City \$243,997.75 for its services. Various matters concerning Water Department and TPW contracts and representation of the City in litigation concerning such matters are still pending. Because of the extraordinary importance of the issues raised, it is the recommendation of the City Attorney to authorize an additional sum of \$100,000.00 to Whitaker Chalk for their services concerning those matters not to exceed \$350,000.00.

Since the last increase counsel have been negotiating arbitration agreements with various contractors. This M&C is to increase the amount to be paid to Whitaker Chalk for these matters and general construction issues. Fees for litigation lawsuit costs will be addressed under a separate M&C.

**FISCAL INFORMATION/CERTIFICATION:**

The Financial Management Services Director certifies that upon approval of the above recommendations, funds will be available in the current operating budget, as appropriated, of the General Fund and Water and

Sewer Fund. Upon approval, the unaudited available cash balance of the Water and Sewer Fund will be \$8,521,439.46 which is the amount available above the minimum reserve cash balance of \$37,227,484.80 required by the City's Financial Management Policy Statements (i.e., 20 percent of the current-year adopted budget expenditures less debt service and capital projects).

**TO Fund/Account/Centers**

PE45 531200 0601000

\$50,000.00

**FROM Fund/Account/Centers**

GG01 539120 0905500

\$50,000.00

PE45 531200 0601000

\$50,000.00

---

**Submitted for City Manager's Office by:**

Fernando Costa (6122)

**Originating Department Head:**

David Yett (7623)

Frank Crumb (8246)

**Additional Information Contact:**

Gerald Pruitt (7616)

Jimmy Riddell (7614)

---